REMARKS/ARGUMENTS

The Office Action dated March 18, 2007, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 3-11, 13-21 and 23 are pending in this application.

Claims 19 and 20 were amended to clarify the claims and do not introduce new issues or new matter.

Claims 3-11, 13-21, and 23 stand rejected under 35 USC 102(a) as anticipated by Kiel (2003/0027549).

The present claims are directed to a computer implemented method for regulating data consumption in a wireless network, comprising the steps of:

storing an account _for each of a plurality of subscribers_ of the wireless network, each account having an upstream and a downstream balance that tracks a _wireless network data consumption_ of the respective subscriber of the wireless network;

imposing a _bandwidth limitation_ on a subscriber of the wireless network responsive to either the upstream or downstream balance of the account of that subscriber of the wireless network _dropping below a defined level_; and

for each account, crediting the balance of the respective account on an intermittent basis.

Kiel discloses a system that is very different from the method of the instant claims.

1)   In the claimed method, upstream and downstream balances are monitored in order to track the wireless network data consumption (_traffic_) of each subscriber. See, for example, claims 3 and 21. This monitoring of the consumption or traffic of the data is not the same as monitoring an absolute account balance.

2)   When consumption (traffic) of a subscriber exceeds certain thresholds, the consumption rate is limited to varying degrees by imposing bandwidth limitations, not blocked as Kiel does when the user has exhausted his paid subscription. See, for example, claims 3 and 21. (Note bandwidth is a data _rate_ supported by a network connection or interface. One most commonly expresses bandwidth in terms of bytes per second (bps). Limiting the bandwidth would be slowing down the network connection, such as allowing 56 Kbps instead of 64 Kbps.)

3)   When the consumption (traffic) of a subscriber falls below the thresholds, the system automatically adjusts the rate allowed (wireless network data consumption) per the threshold. See, for example, claim 7. Kiel's billing rules, on the other hand, just re-enable the client access after further payment is made.

4)   The claimed method allows different levels of service dynamically per user based on that user's real-time usage - in real time.

5)   The claimed method can work opposite to Kiel's in that traversing the threshold can increase the user's rate since the adjustments can increase or decrease based on the thresholds reached. The claimed method can also automatically adjust rates in real-time in both exceeding and then dropping below thresholds. These adjustments are made real-time - they can occur in fractions seconds in each direction. The users' rates can change constantly. Kiel simply turns access on or off.

Kiel is directed to a *prepaid* subscriber system with accounting done on each subscriber's system. The system *blocks access* to the network when the subscriber's *prepaid* account is depleted. Kiel states at page 2, paragraph 0022, that his invention is fundamentally different from others in that "rather than *continuously monitoring* the communications activity of a client *by utilizing central system resources* the activity is recorded by an activity-monitoring unit that is installed on the client's communications device." (Emphasis added.)

Importantly, Kiel does not deal with a plurality of subscribers as claimed but instead deals with individuals by attaching a unit to each individual's device. This unit only records usage for that individual and simply shuts access down when the prepaid limit is expired. This unit does not monitor a plurality of subscribers as claimed.

If the credit has been exhausted, bandwidth limitations are not imposed – service is simply cut off. See Keil paragraph [0021]. Keil paragraph [0026] merely recites different ways the accounting may take place. For example, prepaid services may allow a certain amount of time or transmission of a certain amount of bytes. Thus, if 30 hours of computer time is allotted, when the 30 hours is used up, the service is terminated. This paragraph does not contemplate bandwidth limitations - only an all or nothing access.

In contrast to Kiel's system, the claimed method operates on a central system monitoring a plurality (e.g. thousands) of subscribers. Multiple specific bandwidth rates can be set based on

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multiple thresholds (upstream, downstream, and burst). Thus, while Kiel's system debits prepaid accounts, the claimed method accumulates and can carry forward balances.

Moreover, Kiel *does not impose bandwidth limitations*. Kiel simply monitors activities and when, based on billing rules, the prepaid account is depleted, Kiel <u>blocks</u> all communications activity of the client itself.

In contrast, the claimed method provides *bandwidth control* such as with separate rates per direction and <u>does not indiscriminately block</u> all traffic. That is, for example, if a user exceeds 5GB on the upstream in a week, s/he could be restricted to 100Kbps on the upstream. Simultaneously, s/he could be restricted to 200Kbps on the downstream if 7GB of downstream traffic were received in a week. And, at the same time if s/he bursts to exceed 20 MB in an hour on the downstream, s/he could be restricted to 50Kbps until the average burst is lower than 20Mbps per hour. A similar different burst rate could be applied to the upstream. Further, there are multiple levels of thresholds. A user may be limited to 100Kbps for exceeding 5GB in a week on the upstream, and if s/he exceeds 6GB, s/he could be limited to 10Kbps. Thus, the claimed method can provide multiple levels of thresholds and penalties; and can have different penalties running simultaneously in each direction and in both directions simultaneously with burst overlaying them. This is quite different from Kiel's blocking network access (not bandwidth!) when the prepaid amount is exhausted.

As mentioned above, <u>Kiel does not control bandwidth</u>, but instead <u>blocks</u> access. Kiel does not automatically release the access restriction unless the subscriber has paid more into the prepaid account. Moreover, Kiel does not provide upstream, downstream, and usage information to the user upon request. (Instant claim 10, for example.) Kiel simply notifies the user that s/he is blocked if s/he has exceeded the prepayment amount.

The claimed method allows the user to query his/her balance at any time and a network operator to view all balances including burst, inbound, outbound, and the penalties applied (if any).

Kiel does not provide multiple thresholds per subscriber. Kiel does not provide multiple bandwidth limitations/penalties per subscriber (which operate simultaneously). Kiel does not automatically restore users' bandwidth based on time, only on payment. In addition, Kiel does not offer the option to carry forward previous balances into the next interval as his is a debit system, not a credit system.

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Kiel does not teach each and every element of the instant claims. Reconsideration is respectfully requested and a favorable action on the merits is solicited.

CONCLUSION

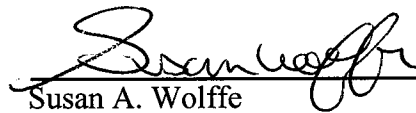In view of the above remarks, this application is in condition for allowance.

The Commissioner is authorized to charge our Deposit Account No. 19-0733 for any fees associated with this paper or application. A duplicate copy of this sheet is enclosed for accounting purposes.

Respectfully submitted,

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Date: 5\21\07

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